



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WEB COPY

Writ Petition (MD)No.21941 of 2017

and

W.M.P. (MD) .No.18322 of 2017

M.Sivaapandian

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.Tahsildar,
Kovilpatti Taluk,
Kovilpatti,
Thoothukudi District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the 2nd respondent in connection with the impugned order of rejection passed by him vide his proceedings in Na.Ka.A5/383/2017 dated 20.02.2017 and quash the same as illegal and arbitrary and consequently direct the respondents to appoint the petitioner in any suitable post, based on his educational qualification under compassionate ground, in the light of the order passed by this Court in W.P.(MD)No.5879 of 2012 dated 03.06.2014 as well as W.P.No.28402 of 2011, dated 04.10.2016.

For Petitioner

: Mr.G.Chandrasekar

For Respondent

: Mr.A.Karthick

Government Advocate

O R D E R

This writ petition has been filed challenging the impugned order passed by the second respondent in Na.Ka.A5/383/2017, dated 20.02.2017 and quash the same and consequently, direct the respondents to appoint the petitioner in any suitable post, based on his educational qualification, under compassionate ground, in the light of the order passed by this Court in W.P.(MD)No.5879 of 2012, dated 03.06.2014, as well as the W.P.No.28402 of 2011, dated 04.10.2016.

2. The case of the petitioner is that his father worked under the second respondent as Village Assistant and died in harness on 28.06.1997, leaving behind the petitioner and his mother as legal heirs. At the time of death of the petitioner's father, he was a



minor. Hence, the petitioner was not able to make an application for compassionate appointment and he attained majority in the year 2016. Immediately thereafter, he has made a representation to the second respondent on 31.10.2016, requesting him to appoint the petitioner in any post under compassionate ground. However, by the impugned order dated 20.02.2017, the second respondent has rejected the petitioner's representation on the ground that the application for compassionate appointment to be submitted within a period of three years from the date of death of the Government servant, but the petitioner has submitted the representation after lapse of 19 years. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that at the time of death of the petitioner's father, he was a minor and he made an application for compassionate appointment on 31.10.2016, after attaining majority. The object of the Scheme is to give or safeguard the Government Employee's family from sudden financial crisis. However, without considering the financial crisis faced by the petitioner's family, the second respondent has rejected the petitioner's application on the ground of delay. Hence, he prayed for allowing this writ petition.

4. The learned Government Advocate appearing for the respondents would submit that the issue involved in the present writ petition is no more *res integra* and it has been settled by the Division Bench of this Court in **W.A.No.3899 of 2019 (P.Poongodi vs. The Chairman)**, wherein it has been categorically held that the claim for appointment on compassionate ground must be made without any delay. Hence, he prayed for dismissal of this writ petition.

5. Heard the learned counsel for the petitioner, learned Government Advocate appearing for the respondents and perused the materials available on record.

6. The facts in the present case are not in dispute. On the date of death of the employee, the petitioner was a minor and after attaining majority, he has made a representation to the second respondent for compassionate appointment. But the same was rejected on the ground of delay.

7. The purpose of providing employment on compassionate basis is to mitigate the hardship of the family which has arisen due to the death of the employee and such appointment therefore has to be provided immediately to ensure that the family tide over the sudden crisis which has arisen due to the death of the employee. The dependent of a deceased employee cannot be permitted to convert a tragedy into a bonanza. If the compassionate appointment is treated as one more source of recruitment, then it will be violative of Article 16 of the Constitution of India. It is settled by various decisions of the Hon'ble Supreme Court, an appointment on



compassionate basis is a concession given by the employer to help the family of the deceased who has died in harness to get over the immediate financial crisis. The scheme under which compassionate appointment can be given has to be construed strictly.

8. As already pointed out by the learned Government Advocate that the very same issue was already decided by the Division Bench of this Court in **W.A.No.3899 of 2019 (P.Poongodi vs. The Chairman)**, wherein, the Division Bench of this Court has categorically held that the claim for appointment on compassionate ground must be made without any delay.

9. In view of the categorical decision cited supra, there is no merit in this writ petition and it deserves dismissal and accordingly, the Writ Petition is dismissed. However, in the circumstances of the case, there will be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.Tahsildar,
Kovilpatti Taluk,
Kovilpatti,
Thoothukudi District.

+1 CC to M/s.GP (SR-2385[F] dated 29/01/2021)

Writ Petition (MD)No.21941 of 2017

27.01.2021

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